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ATTORNEYS FOR THE TRUSTEE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:	§	
	§	
ANIMO SERVICES, LLC,	§	CASE NO. 23-30035-mvl7
	§	
DEBTOR.	§	

**MOTION TO COMPEL TOBY NEUGEBAUER TO APPEAR
ON BEHALF OF THE DEBTOR FOR EXAMINATION AND
TESTIFY AT THE CONTINUED MEETING OF CREDITORS**

TO THE HONORABLE MICHELLE V. LARSON, UNITED STATES BANKRUPTCY
JUDGE:

Areya Holder Aurzada (the “Trustee”), in her capacity as the chapter 7 trustee for Animo Services, LLC (the “Debtor”), files this *Motion to Compel Toby Neugebauer to Appear on Behalf of the Debtor for Examination and Testify at the Continued Meeting of Creditors* (the “Motion”), and in support hereof would respectfully show as follows:

I. FACTS

1. On January 4, 2023, an involuntary petition for relief under chapter 7 of the United States Bankruptcy Code was filed against the Debtor. This Court entered an order for relief under chapter 7 against the Debtor on February 9, 2023. The Trustee was appointed as the chapter 7 trustee, and she continues to serve in that capacity.

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2. The meeting of creditors under section 341 of the Bankruptcy Code was scheduled and held on April 11, 2023. No one appeared on behalf of the Debtor. The Trustee continued the meeting of creditors to May 10, 2023 at 11:30 a.m.

3. No list of creditors, bankruptcy schedules, or statement of financial affairs have been filed in this case.

4. The Debtor is a Texas limited liability company. According to the public records on file with the Texas Secretary of State, the sole manager of the Debtor is With Purpose, Inc., a Texas corporation. The most recent corporate filing by the Debtor with the Texas Secretary of State is a Certificate of Amendment filed February 11, 2022 signed by Toby Neugebauer on behalf of With Purpose, Inc.

5. With Purpose, Inc. is a debtor in a separate chapter 7 case pending in this Court, Case No. 23-30246-mvl7. Scott M. Seidel is the chapter 7 trustee for With Purpose, Inc. According to the bankruptcy schedules filed in that case, With Purpose, Inc. is the sole member of the Debtor. Toby Neugebauer appeared and testified as the representative of With Purpose, Inc. at the meeting of creditors in that case.

II. RELIEF REQUESTED

6. The Trustee requests that the Court enter an order compelling Toby Neugebauer to appear on behalf of the Debtor for examination and testify at the continued meeting of creditors in this case on May 10, 2023 at 11:30 a.m. and at any further continued meeting of creditors in this case.

III. ARGUMENT AND AUTHORITIES

7. This Court has jurisdiction over this Motion under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding under 28 U.S.C. § 157(b)(2). Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.

8. “The debtor shall appear and submit to examination under oath at the meeting of creditors under section 341(a) of [Title 11].” 11 U.S.C. § 343. “[W]hen it is necessary to compel attendance of a debtor for examination and the debtor is not a natural person: (A) if the debtor is a corporation, ‘debtor’ includes, if designated by the court, ... any other person in control.” Fed. R. Bankr. P. 9001(5). The term “corporation” includes a limited liability company. 11 U.S.C. § 101(9); *Redmond v. CJD & Assocs., LLC (In re Brooke Corp.)*, 506 B.R. 560, 567 (Bankr. D. Kan. 2014). Accordingly, the bankruptcy court has the authority to select the appropriate individual to appear on behalf of a corporate debtor for examination at the meeting of creditors. *In re Muy Bueno Corp.*, 257 B.R. 843, 847 (Bankr. W.D. Tex. 2001). “The court, at the end of the day, is free to decide who is the ‘person in control’ and to then designate that person to appear, with a view to assuring creditors that they have been furnished with the person most likely to be knowledgeable about the debtor’s affairs.” *Id.* at 848.

9. As an authorized representative of the sole member and sole manager of the Debtor, Mr. Neugebauer is a person in control of the Debtor. Based upon her investigation, the Trustee believes Mr. Neugebauer is the individual who is most knowledgeable about the Debtor’s assets, liabilities, and financial affairs.

IV. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, the Trustee requests that this Court enter an order:

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(a) compelling Toby Neugebauer to appear on behalf of the Debtor for examination and testify at the continued meeting of creditors in this case on May 10, 2023 at 11:30 a.m. and at any further continued meeting of creditors in this case; and

(b) granting the Trustee such other and further relief, at law or in equity, to which she may be justly entitled.

Respectfully submitted,

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By: /s/ Kenneth A. Hill

Kenneth A. Hill

State Bar No. 09646950

ATTORNEYS FOR THE TRUSTEE

CERTIFICATE OF CONFERENCE

I hereby certify that I conferred by telephone and email with Clay Taylor, counsel for Toby Neugebauer, and he stated that he opposes the relief requested in this Motion. I further certify that I conferred by email with Thomas Berghman, counsel for Scott Seidel, chapter 7 trustee for With Purpose, Inc., and he did not take a position on the relief requested in this Motion at this time.

/s/ Kenneth A. Hill

Kenneth A. Hill

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served concurrently with the filing of the same (a) via the Court's CM/ECF noticing system upon all persons who have filed ECF appearances in this case and (b) via first class mail, postage prepaid, on the following:

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/s/ Kenneth A. Hill
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